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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/680,654	10/06/2000	David Allison Bennett	PSTM0015/MRK	9943
29524	7590	11/30/2006	EXAMINER	
WEBB, JAMISUE A				
KHORSANDI PATENT LAW GROUP, A.L.C. 140 S. LAKE, SUITE 312 PASADENA, CA 91101-4710			ART UNIT	PAPER NUMBER
3629				

DATE MAILED: 11/30/2006

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/680,654

Filing Date: October 06, 2000

Appellant(s): BENNETT ET AL.

Marilyn R. Khorsandi
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 8/31/06 appealing from the Office action mailed 1/27/06

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

No evidence is relied upon by the examiner in the rejection of the claims under appeal.

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:
 - (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
2. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Appellant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).
3. Claims 1-21, 26-52, and 57-70 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kara (6,233,568) in view of UPS® Service Guide (www.ups.com) and FedEx® Services (www.fedex.com) and Barnett et al. (6,369,840).
4. With respect to Claims 1-4, 13-19, 21, 26-28, 32-35, 44-50, 52, 57-59, and 63-67: Kara discloses an onscreen interactive display with a selection and comparison section for a plurality of carriers with a plurality of services (See Figure 8). Kara discloses a display where the rates of each carrier are displayed adjacent to the selected services (See Figures 8A). However Kara

does not specifically disclose the rates being calculated with respect to time. Both UPS® and FedEx® disclose specific services where they are guaranteed delivery by a certain time in the day. It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the time sensitive “urgency” services, as disclosed by FedEx® and UPS®, in order to ship things and compete with a time advantage using guaranteed delivery times and to reduce costs, when delivery time is not of importance. (See Fed Ex Page 1). Kara, UPS® and FedEx® fail to disclose the use of a graph which simultaneously displays a graph of shipping fees and services, where one axis being date and one axis being time and where each cell is located at the intersection of the date and time. Barnett discloses the use of a calendar which can be used for online purchasing of services (column 2, lines 63-67), where there is a graphical representation of date on one axis and time on another (See Figure 9). It would have been obvious to one having ordinary skill in the art at the time the invention was made to display the calculation of shipping rates, calculated by Kara, UPS® and FedEx®, in the format of a plurality of cells with date on one axis and time on another, as disclosed by Barnett, in order to provide a multi-layers system wherein different categories can be overlaid on one another providing a single integrated display that allows a user to order or purchase a system based on the calendar day and time (See Barnett, column 2). The examiner considers that when the rates are displayed in a matrix, then each of the rates are displayed adjacent to the axis, and therefore displayed adjacent to the time and date of the service.

5. With respect to Claims 5 and 36: Barnett discloses subdividing each cell with the plurality of services (See Figures 12 and 13).

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6. With respect to Claims 7 and 38: Barnett discloses the display can be checked (See Figures 8 and 9 with corresponding brief descriptions), and therefore the examiner considers this to be a selection button.

7. Wit respect to Claims 6, 20, 37 and 51: Kara and Barnett above discloses the claimed invention, but fails to disclose the use of colorizing the display. It is old and well known in the art that colorizing a display so distinguish one service or one carrier from another. This is done in legends on a map, or a legend in a bar graph, where each bar is colorized to represent a specific group of data. Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to colorize the display so that each carrier has a different color, due to the fact that this technique is old and well known in the art.

8. With respect to Claims 8-12, 29-31 and 39-43, 60-62, 68-70: Kara and Barnett disclose the use of the interactive display but fails to disclose when the curser is placed on the cell it displays details of the specific service (in this instance details of the carrier and service). It is old and well known in the art that when a selection or service that is available, when a cursor is placed over the selection a detailed popup window is displayed and once the service is clicked on it is started up. This is done in the Microsoft® Windows™ environment. When a cursor is placed over a file a more detailed description of the file is popped up, and once the file is slicked on, the file is opened up or the program is started. This is done in the taskbar that is located at the bottom of the monitor. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to have a pop up window giving details of the carrier

service and then once the cell is clicked the service is selected, due to the fact that this feature is old and well known in the art to display more detailed information upon selection.

9. With respect to Claims 9, 10, 12, 31, 40, 41, 43, 62 and 70: Kara discloses once the service is selected a shipping layer with respect to the carrier is displayed (See Figure 9).

(10) Response to Argument

With respect to Appellant's argument regarding **Issue 1**, Claims 1-21, 26-52 and 57-70: The appellant has stated that Barnett does not disclose any simultaneous display of rates, instead Barnett is used as a calendaring system. The rejection as stated in the final office action, does not state that Barnett is used to show the simultaneous display of rates. Kara discloses a system where multiple rates are shown for multiple carriers. Barnett is merely used to show that it is old and well known in the art to put services in the form of a calendar view, where time is on one axis and date is on the other, for ease of viewing (see Column 2). As pointed out by the appellant, Barnett discloses the concept of purchases for services or events can be done, using the calendaring system, therefore one of ordinary skill in the art would look at the Barnett reference to display services available with time on one axis and date on the other. The system as claimed is a system which calculates rates and simply displays the rates simultaneously in a calendaring system.

With respect to Appellant's argument regarding **Issue 1a**: The appellant is arguing that even if Barnett did show rates, it shows rates for multiple events, and not for a single event of delivery of a parcel. As stated previously by the examiner, Barnett is not used to show the limitations of displaying rates for one event. Barnett is used only for the limitation of the way

items are being displayed, with time on one axis and date on the other. Kara discloses calculating and displaying rates simultaneously for multiple carriers, and calculates rates for each service of each carrier. Barnett's calendaring system is a multi-layered calendaring system for one person, therefore can be equated to one event. Therefore, simultaneously displaying all options of one category for that person on a calendar. Kara discloses displaying multiple rates for multiple carriers, and calculates multiple rates for multiple services. Barnett discloses displaying multiple options on a calendar with time on one axis and date on the other for ease of viewing, therefore it is the examiner's position that one of ordinary skill in the art would be motivated to combine the references and obtain the claimed invention.

With respect to Appellant's arguments regarding **Issue 2:** The appellant has stated that even when combining the references, the combinations does not disclose a displaying a simultaneous display of rates in a graphic cross-comparison that provides an indication of date and time. The appellant has argued that there is no disclosure of a determination of a schedule or a calculation of shipping costs for delivery of a particular parcel in the FedEx reference or the UPS reference. It is the examiner's position that Kara discloses calculating rates for each service of each carrier, as shown in Figure 8. The FedEx reference as well as the UPS reference was used to show the fact that for each service of the carrier, a time is associated with the service. Kara already discloses calculating a rate for each service, therefore the combination of references shows a service, with a specific time, is associated with a rate. Kara discloses associated for each carrier rates and rules for shipping. Even though Kara discloses the user must select a service prior to the system calculating the rates, the system of Kara is fully capable of performing the task of calculating a rate for each service of each carrier. Kara does not disclose

a comparison of delivery dates and times, even for rates of a selected service, however as shown with the UPS and FedEx reference each service is associated with a time and date, and therefore with Barnett, the combination of references teach the comparison display of multiple rates associated with a date and time, when viewed with the calendaring system of Barnett.

With respect to Appellant's arguments regarding **Issue 2a**: The appellant is arguing that in order for a person to determine date and time, rules for each specific carrier would apply and certain steps would need to be taken to insure the correct delivery time/date, such as Saturday delivery. It is the examiner's position that Kara discloses in Columns 21 and 22, that the system takes into account each of the criteria for each service is different for each carrier or service provider, and the system accounts for this. Therefore the time and date would be correctly determined by Kara given the rules as set for by the service providers. As stated in the office action, Kara may only display rates for only one service for multiple carriers, however the system of Kara is fully capable of calculating and displaying rates for multiple services for multiple carriers, however the display is only done one service at a time. The simultaneous display is done by Barnett.

With respect to Appellant's arguments regarding **Issue 2b**: The appellant has again stated that Kara does not disclose the simultaneous display of rates for multiple services for multiple carriers. It is the examiner's position that Kara to disclose the capability of calculating and displaying rates for each service for each carrier, however Kara does not "simultaneously" display the rates for each service for each carrier. The simultaneous display is done by Barnett. The appellant states that Barnett is not used for one event of shipping one parcel, but rather multiple events. However Barnett is used for one person (which can be considered one parcel)

and multiple events (which can be considered multiple services for multiple carriers, where each event is equated to one service of one carrier).

With respect to Appellant's argument regarding **Issue 2c**: The appellant is again arguing that Barnett does not disclose the display of rates for each service, but rather events. However, it is the examiner's position that Barnett is used for one person (which can be considered one parcel) and multiple events (which can be considered multiple services for multiple carriers, where each event is equated to one service of one carrier). Barnett discloses the calendaring system which has an intersection of date and time (Event Schedule Week View, reference numeral 321, Figure 9), therefore whereas Barnett alone does not disclose the simultaneous display of rates where delivery date is on one axis and delivery time is one another axis, the combination of Kara, UPS and FedEx, and Barnett discloses this feature.

With respect to Appellant's argument regarding **Issue 2d**: The appellant has stated that the rates shown by Kara do not show or indicate an associated date or time. However, It is the examiner's position that Kara discloses multiple services for each of the carriers, and the FedEx and the UPS references disclose that for each service there is an associated time and day for the service. Therefore the combination of the references would produce a rate being associated with a time and date, and the addition of Barnett would be to simultaneous display the rates on a calendar for cross-comparison purposes.

With respect to Appellant's argument regarding **Issue 2e**: The appellant is arguing that the combination of the Kara, UPS, FedEx, and Barnett references does not disclose "an indication of a particular service-specific, carrier-specific shipping rate selected from a display of simultaneous online interactive graphic cross-comparison of a plurality of respective service-

specific, carrier specific shipping rates". Kara discloses an indication of a shipping rate for a specific service of a specific carrier from an interactive display. Barnett discloses a simultaneous display, and even discloses the purchase of services through the calendar, therefore it is the examiner's position that the combination of Kara and Barnett would disclose an indication of a particular service-specific, carrier-specific shipping rate selected from a display of simultaneous online interactive graphic cross-comparison of a plurality of respective service-specific, carrier specific shipping rates.

With respect to Appellant's arguments regarding **Issue 2f**: The appellant is arguing that the combination of Kara, UPS, FedEx and Barnett does not disclose the "detecting of a clicking". Barnett discloses the calendaring system for display, and further discloses services can be purchased through calendaring system, there the use of a link, where the link must be clicked therefore it is the examiner's position that by purchasing the service by use of a link, then there would be a detecting of a click, because the link must first be clicked.

With respect to Appellant's arguments regarding **Issue 2g**: The appellant is arguing that the combination of Kara, UPS, FedEx and Barnett, does not disclose the placement of a cursor, over a cell of an inline interactive display as a selection by the particular user of a particular service of a plurality of services offered by a particular carrier". As stated in the office action, the examiner considers Barnett to disclose the placement of the cursor over a cell, or an event. Therefore, the combination of Kara, UPS, FedEx and Barnett, would disclose a placement of a cursor for the selection of a particular service of a particular carrier (which would equate to the event of Barnett).

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With respect to Appellant's arguments regarding **Issue 2h**: The appellant is arguing this issue based on the fact that Barnett does not disclose any displaying of rates therefore does not anticipate "...wherein said online interactive display comprises a plurality of cells, and wherein the cell selected displays a shipping rate, wherein said displayed shipping rate corresponds to the particular service offered by the particular carrier...", as recited by Claims 29, 60 and 68. It is the examiner's position that the displaying of rates to be shown by Kara, and as stated previously, Barnett discloses the simultaneous display of events, and the examiner equates an event of Barnett with a carrier specific, service specific rate of Kara. Therefore the combination of references does disclose "...wherein said online interactive display comprises a plurality of cells, and wherein the cell selected displays a shipping rate, wherein said displayed shipping rate corresponds to the particular service offered by the particular carrier..."

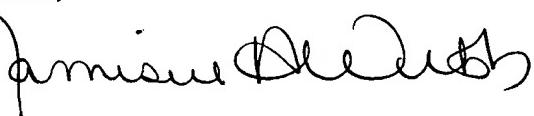
(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

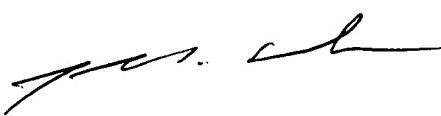
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